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Via ECF and First Class Mail

Hon. William H. Pauley III
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: *Tocco v. Real Time Resolutions, Inc.*
No. 14-CV-810 (WHP)**

Dear Judge Pauley:

We represent defendant Real Time Resolutions, Inc. ("Defendant") and write to advise Your Honor of a recent decision from this Court addressing some of the same issues before Your Honor in connection with Defendant's request to move for certification, pursuant to 28 U.S.C. § 1292(b), of the Court's August 13, 2014 Memorandum and Order (the "August 2014 Order") for immediate appeal.

On September 26, 2014, Judge Louis L. Stanton of this Court issued an Order in *Radha Geismann M.D., P.C., individually and on behalf of All Others Similarly Situated v. Zocdoc, Inc.*, No. 14-cv-07009, where he held that defendant's offer of judgment pursuant to Rule 68, which exceeded any recovery plaintiff could have received under the applicable statute (in this case, the Telephone Consumer Protection Act), mooted her individual claims as well as those of a putative class.

In *Geismann*, the defendant made a Rule 68 offer of judgment to the plaintiff after a motion for class certification had already been made. Relying upon Judge Katherine B. Forrest's decision in *Franco v. Allied Interstate LLC*, 2014 WL 1329168 (S.D.N.Y. Apr. 2, 2014), among other authorities, Judge Stanton dismissed the individual and putative class complaint, holding that "the dismissal of Geismann's individual claim in no way impairs the ability of other actual or potential members of the proper class to seek appropriate recompense for any illegal calls they may have received, in proceedings other than this action." *Geismann*, at p. 5. A copy of Judge Stanton's Order and Judgment in *Geismann* is enclosed as Exhibit A.

Respectfully submitted,

/s/ Casey D. Laffey

Casey D. Laffey

cc: All Counsel of Record (via ECF)